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R. *v.* M.S., [2003] 1 S.C.R. 125, 2003 SCC 11

Her Majesty The Queen *Appellant*

v.

M.S. *Respondent*

Indexed as: R. *v.* M.S.

Neutral citation: 2003 SCC 11.

File No.: 29251.

2003: March 13.

Present: Iacobucci, Major, Bastarache, Binnie and Arbour JJ.

on appeal from the court of appeal for ontario

Criminal law — Driving offences — Dangerous driving — Trier of fact could have made finding of dangerous driving upon evidence but failure to do so not amounting to error of law.

APPEAL from a judgment of the Ontario Court of Appeal (2002), 160 O.A.C. 184, 24 M.V.R. (4th) 165, 4 C.R. (6th) 157, [2002] O.J. No. 2194 (QL), upholding the accused's acquittal on dangerous driving counts. Appeal dismissed.

Thomas D. Galligan, for the appellant.

Michael H. O'Brien and *Matthew Wells*, for the respondent.

The judgment of the Court was delivered orally by

1 IACOBUCCI J. — Mr. O'Brien, it will not be necessary to hear from you as the Court is ready to pronounce judgment. Before doing so, Mr. Galligan, the Court wishes to thank you for your able submissions.

2 This appeal comes to us as of right. In the final analysis, we agree with the majority in the Ontario Court of Appeal ((2002), 4 C.R. (6th) 157) that: "While there was evidence upon which a trier of fact could make a finding of dangerous driving, in the circumstances, the failure to do so did not amount to an error of law" (para. 11).

3 Accordingly, the appeal is dismissed.

Judgment accordingly.

Solicitor for the appellant: Ministry of the Attorney General, Toronto.

Solicitors for the respondent: Sullivan, Festeryga, Lawlor & Arrell, Hamilton.